MADRAS REGULATION No. III OF 1940.

[THE MADRAS AGENCY DEBT BONDAGE ABOLITION REGULATION, 1940.]

[*9th July 1940.*]

A Regulation to abolish the system of debt bondage and to make provision regarding agreements for the performance of certain kinds of labour in the partially excluded areas in the Province of Madras.

WHEREAS it is expedient to abolish the system of debt bondage, called 'gothi' existing in the partially excluded areas in the Province of Madras ;

AND WHEREAS it is expedient to limit the period and regulate the terms of, and otherwise to make provision regarding, agreements for the performance of unskilled manual labour in those areas ; It is hereby enacted as follows :—

Short title and extent.

1. (1) This Regulation may be called the Madras Agency Debt Bondage Abolition Regulation, 1940.

(2) It extends to the whole of the [1][Scheduled Areas in the East Godavari, West Godavari and Visakhapatnam districts].

Definitions.

2. In this Regulation unless there is anything repugnant in the subject or context—

(i) 'advance' means an advance of money or in kind or partly of money and partly in kind and includes any transaction which is substantially an advance ;

(ii) 'Agent' means the Agent to the Government of Madras ;

(iii) 'employer' means a person for whom a labourer is under the terms of an agreement bound to perform labour ;

(iv) 'gothi agreement' means an agreement written or oral, or partly written and partly oral, wherein the consideration for the performance of labour by any person is a debt due by that person and the interest, if any, on such debt and includes any transaction which is substantially such an agreement ;

(v) 'labour' means agricultural labour, and includes domestic service or labour whether indoor or outdoor ;

(vi) 'labour agreement' means an agreement written or oral, or partly written and partly oral, wherein the consideration for the performance of labour by any person is or includes an advance exceeding the equivalent of one month's fair and equitable remuneration made or to be made to such person or at his request to some one else and the interest, if any, on such advance ; and

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[1]These words were substituted for the words "partially excluded areas in the Province of Madras" by the Adaptation (Amendment) Order of 1950.

(vii) 'labourer' means a person who under the terms of an agreement is bound to perform labour.

Future gothi agreement void.

3. A gothi agreement entered into after the commencement of this Regulation shall be wholly void.

Future labour agreement unless satisfies certain conditions void.

4. A labour agreement entered into after the commencement of this Regulation shall be wholly void—

(i) if the full terms of the agreement between the parties are not expressed in writing or if a copy of such agreement is not filed in the office of the Agency Divisional Officer or any other authority appointed by the [1][State] Government in that behalf; or

(ii) if the advance with the interest thereon, if any, is not a fair and equitable remuneration of the labourer for the period during which he has to perform labour; or

(iii) if the period express or implied during which the labour is to be performed exceeds or might in any possible event exceed one year; or

(iv) where provision is made for interest, if the interest provided is not simple interest at a rate not exceeding six and one-fourth per cent per annum.

Explanation.—For the purpose of this Regulation remuneration shall not be deemed to be fair and equitable if it is less than the amount which the [1][State] Government may from time to time by notification fix or, where the amount has not been so fixed if it is less than seven rupees a month where the labourer is not fed by the employer or four rupees a month where the labourer is fed by the employer.

Liability to perform labour extinguished on the expiry of the period specified in the agreement.

5. All liability to perform labour under a valid labour agreement shall be extinguished on the expiry of the period specified in such agreement.

Right of labourer to pay off amount due and free himself from the obligation to perform labour.

6. A labourer shall be at liberty to pay off any balance due out of the advance together with the interest thereon, if any, at any time during the subsistence of a valid labour agreement, and free himself of any obligation to perform labour under the agreement.

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[1]This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

Collateral agreement by a labourer void.

7. A labourer who has entered into a labour agreement shall not be bound to execute any other document in respect of the advance or interest thereon. If any other document is executed by a labourer, it shall be wholly void.

Labour agreement void on death of labourer and liability to labour extinguished.

8. Every labour agreement referred to in section 4 shall lapse on the death of the labourer and no liability under the labour agreement shall survive against the estate of the deceased labourer or against any of his heirs.

Special provisions in respect of subsisting gothi and labour agreements.

9. (1) A gothi or labour agreement subsisting at the commencement of this Regulation shall be wholly void unless its terms are settled, as though it were a labour agreement entered into after the commencement of this Regulation, under sub-section (2) and a copy thereof as so settled is filed in the office of the Agency Divisional Officer or any authority appointed by the [1][State] Government under clause (i) of section 4.

(2) Any party to a gothi or labour agreement subsisting at the commencement of this Regulation may apply to any officer empowered by the [1][State] Government in that behalf for the settlement of the terms of such agreement and such officer shall settle the terms of such agreement as though it were a labour agreement entered into after the commencement of this Regulation and such settlement shall be binding on the parties to the agreement. A copy of the agreement as so settled shall be filed in the office of the Agency Divisional Officer or any authority appointed by the [1][State] Government under clause (i) of section 4.

Penalty for obtaining labour in pursuance of a void agreement.

10. Whoever obtains labour from a person in pursuance of an agreement which is void under this Regulation shall be punished with fine which may extend to two hundred rupees or in default with imprisonment of either description which may extend to six months.

Other penalties.

11. Any employer who—

(i) fails to file in the office of the Agency Divisional Officer, or any authority appointed under clause (i) of section 4 a copy of a labour agreement entered into after the commencement of this Regulation, or of a gothi or labour agreement, the terms of which have been settled under sub-section (2) of section 9 ; or

(ii) fails to pay the labourer his remuneration or fails to feed him when according to the terms of the agreement he is bound to feed the labourer[1] ;

[1]This word was substituted for the word "Provincial" by the Adaptation Order of 1950.

shall be punished with fine which may extend to two hundred rupees or in default with imprisonment of either description which may extend to six months.

Termination of agreement by employer.

12. (1) If, during the period of a valid labour agreement or of a gothi or labour agreement settled under sub-section (2) of section 9, a labourer without just cause withholds the stipulated labour or does not perform it with reasonable assiduity, the employer may give to the labourer one month's notice in writing of his intention to terminate the agreement and file a copy of such notice in the office of the Agency Divisional Officer or other authority in which a copy of the original agreement was filed. On the expiration of one month from the date of such notice or of filing the copy thereof as aforesaid, whichever is later, the agreement shall terminate and thereupon the employer may apply to the Agency Divisional Officer for the recovery of the money value of the labour withheld or not performed till the termination of the agreement and the balance of the principal of the advance or of the debt due on the date of the termination of such agreement together with interest thereon if any.

(2) If upon such application it is proved to the satisfaction of the Agency Divisional Officer that the labourer without just cause has withheld the stipulated labour or did not perform it with reasonable assiduity he may pass an order directing the labourer to pay the employer such sum not exceeding the money value of the labour withheld or not performed till the termination of the agreement and the balance of the principal of the advance or of the debt due on the date of the termination of the agreement together with the interest if any.

(3) Any sum payable to the employer under an order made under sub-section (2) may be recovered on application to the Magistrate having jurisdiction where the labourer by whom the money is payable is for the time being resident, by the distress and sale of any movable property belonging to the labourer which is within the limits of the Magistrate's jurisdiction.

Trial of offences.

13. No offence made punishable by or under this Regulation shall be tried by a court inferior to that of the Agency Divisional Officer.

Institution of prosecution and composition of offences.

14. (1) No prosecution for an offence under this Regulation shall be instituted except by an officer of the Land Revenue Department not below the rank of Deputy Tahsildar.

(2) Any such officer may accept from any person reasonably suspected of having committed an offence under this Regulation a sum of money by way of composition for the offence. On payment of such sum of money to such officer no further proceedings shall be taken against such person in respect of such offence.

Appeals.

15. From any sentence of fine exceeding fifty rupees an appeal shall lie to the Agent. Such appeal shall be preferred within thirty days from the date of the sentence appealed against.

Decision of disputes.

16. (1) If any dispute arises between the employer and the labourer in respect of a valid labour agreement or of a gothi or labour agreement settled under sub-section (2) of section 9, the Tahsildar or Deputy Tahsildar having jurisdiction may on the application of the employer or labourer decide such dispute and pass such order as he may deem fit and every such order shall be binding on the employer and the labourer.

(2) Any sum payable under an order made under sub-section (1) may be recovered on application to the Magistrate having jurisdiction where the person by whom the money is payable is for the time being resident, by the distress and sale of any movable property belonging to that person which is within the limits of the Magistrate's jurisdiction.

(3) The Agency Divisional Officer may revise any order passed under this section by a Tahsildar or Deputy Tahsildar.

Revision by Agent.

17. The Agent may revise any order or sentence passed under this Regulation against which no appeal lies.

Orders of Agent final.

18. The orders of the Agent passed on appeal or revision shall, subject to the provisions of section 19, be final.

Revision by State Government

19. The [1][State] Government may revise any order of the Agent passed on appeal or revision.

Exemption from fees.

20. No fee shall be charged in connexion with any document, complaint, application or appeal filed by a member of a hill tribe under this Regulation.

Explanation.—For the purpose of this section the expression "hill tribe" shall have the same meaning as in clause (*c*) of section 2 of the Agency Tracts Interest and Land Transfer Act, 1917.

Madras Act I of 1917.

Jurisdiction of civil court barred.

21. No civil court shall have jurisdiction in any matter arising under this Regulation.

Rules.

22. The [1][State] Government may make rules to carry out all or any of the purposes of this Regulation not inconsistent therewith.

Saving.

23. Nothing contained in this Regulation shall apply to the grant of advances to labourers not exceeding the equivalent of one month's fare and equitable remuneration.

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[1] This word was substituted for the word "Provincial" by the Adaptation Order of 1950.